

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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SPL ACQUISITION CORPORATION,

Plaintiff,

v.

Case No. 08-CV-545

COLUMBIA CASUALTY COMPANY,

Defendant.

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**ORDER**

On June 25, 2008, plaintiff SPL Acquisition Corporation filed a complaint naming Columbia Casualty Company as defendant. The complaint alleges that defendant breached its contract with plaintiff and acted in bad faith; as a result, plaintiff seeks damages, attorneys fees, declaratory relief, and an injunction. Plaintiff paid the filing fee for this action, filed a certificate of interest, and refused to consent to proceeding before a magistrate judge. However, no answer to the complaint or other pleading by any party has been subsequently filed. It appears that as of the date of this order, the defendant has not been served with a summons and complaint, or waived such service.

Rule 4(m) of the Federal Rules of Civil Procedure states the following:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed.R.Civ.P. 4(m). The period to serve the summons and complaint on defendant expired on October 23, 2008, 120 days after plaintiff filed its complaint. Accordingly, plaintiff shall have twenty (20) days from the date of this order to provide good cause for the failure to timely serve defendant with a summons and complaint. If plaintiff does not provide good cause for failing to timely service defendant, the court will dismiss the complaint without prejudice pursuant to Federal Rule of Civil Procedure 4(m) and Civil Local Rule 41.1.

Accordingly,

**IT IS ORDERED** that plaintiff shall have twenty (20) days from the date of this order to provide good cause for the failure to timely serve defendant with a summons and complaint; if no good cause is provided, the court will dismiss this action without prejudice.

Dated at Milwaukee, Wisconsin, this 17th day of December, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller  
U.S. District Judge